

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:02-CR-60-5H
No. 4:10-CV-195-H

NIGEL CLARKE,
Petitioner,

v.

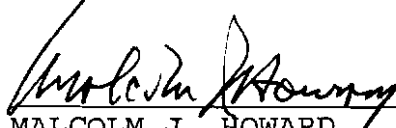
UNITED STATES OF AMERICA
Respondent.

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ORDER

This matter is before the court on petitioner's motion to vacate or set aside sentence pursuant to 28 U.S.C. § 2255, dated December 20, 2010. Petitioner previously filed a § 2255 motion on January 29, 2007, which the court dismissed as untimely. This court has also denied several motions in which petitioner sought to relitigate his § 2255 motion. Because the motion presently before the court is a successive § 2255 motion, this court is without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals"). Accordingly, petitioner's motion [DE #560] is DISMISSED WITHOUT PREJUDICE to petitioner's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

This 10th day of January 2011.



MALCOLM J. HOWARD
Senior United States District Judge